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Atty. Docket No.: 8S08.1-162
Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: JONES, Keith D.	)	
	)	
Serial No.: 09/954,838	)	Art Group: 3634
	)	
Filed: September 12, 2001	)	Examiner: CHIN-SHUE, A.
	)	
For: "ADJUSTABLE SAFETY LINE"	)	Confirmation No.: 8157

Mail Stop **AF**
Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

February 26, 2007
Filed Via Facsimile

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicant requests review pursuant to the Pre-Appeal Brief Conference Pilot Program. 1296 Off. Gaz. Pat. Off. 67 (12 July 2005, and extended 10 January 2006).

This request is submitted along with a Notice of Appeal and the requisite fee therefor. This request is submitted within two months of the date of the Final Office Action. Thus, no extension of time is believed due. In the event that any extension of time is required, please consider this a request therefor. The Commissioner is authorized to charge any additional fees due or credit any overpayment to Deposit Account 50-1513.

CERTIFICATE OF FACSIMILE TRANSMISSION

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Michelle E. Kandcer — Date 02/26/2007

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Status of the Claims

Claims 9-11, 13-17, and 22 remain in this Application and stand finally rejected. Claims 15, 17, and 22 have been withdrawn. Applicant submits that the present grounds of rejection cannot be sustained. Accordingly, Applicant believes that all claims are in condition for allowance and respectfully requests such action.

The Standing Rejections Are Clearly Deficient and without Basis:

A. Claim Rejections under 35 U.S.C. § 102(b)

Claims 9, 10, 14, and 16 stand rejected under 35 U.S.C. §102(b) as being anticipated by Great Britain Patent No. 2,259,855 of *Miller*. This rejection is erroneous and cannot be sustained.

The §102(b) rejection is improper because the cited reference fails to disclose every element in the claimed invention. Although the Examiner has taken the position that *Miller* anticipates the present claims, Applicant respectfully points out that the *Miller* reference discloses the use of a Prusik hitch for purposes other than what is claimed. In particular, the Miller reference discloses using a Prusik hitch for climbing a tree and for lowering a load. Simply stated, this is **not** what is claimed. Obviously, the Applicant has not invented the Prusik hitch. Instead, the Applicant has discovered that through the use of a Prusik hitch, an improved safety harness arrangement can be achieved.

In the *Miller* reference, the Prusik hitch is used as a tool for climbing or lifting a load. If during the climb, the climber becomes incapacitated, the *Miller* invention provides a device that allows a person other than the climber to remotely apply pressure on the Prusik knot so as to lower the load while controlling the rate of descent of the load. However, climbing and lowering a load are not the purposes or goals of the present invention. Instead, the present invention is directed to avoiding injury should someone begin to fall from an elevated position. Once the person has fallen, climbing back up or lowering the load is **not** part of the claimed invention. In the claimed safety device, the Prusik hitch is used to arrest the user's fall. The Applicant has discovered that the Prusik hitch becomes progressively tighter as the user falls, thereby providing a progressive braking action. This

progressive braking action provides improved safety in that it avoids the sudden snap or jerk at the end of the fall as happens when a conventional safety line reaches its length limit. The Prusik hitch employed in the present invention allows some "give" due to the sliding nature and progressive braking such that the falling user is progressively slowed until he is ultimately stopped, rather than being stopped all once.

Simply stated, the *Miller* rope and knot are constantly load-bearing, or in other words, the rope and the particular knot constantly support the weight of the user. The cited prior art shows active use of a knot for climbing and lowering a load but does not show passive use of a rope knot for arresting a fall. The present invention, however, relates to and claims a safety line using a knot passively for arresting a fall. Claim 9, the sole independent claim, recites:

> A safety rope system for preventing injury to a user should the user fall from an elevated position, the user being supported in the elevated position by a platform, seat, or other device, the user not being supported by the safety rope system except in the case of a fall from, or failure of, the platform, seat, or other device, the safety rope system comprising:
>
> a safety harness to be worn by the user;
>
> a standing rope line for attachment to a tree, pole, or the like, with a first end of the standing rope line being adapted to be secured to the tree, pole, or the like; and
>
> a sliding rope coupler for attaching the safety harness to the standing rope line, the sliding rope coupler comprising a length of rope with multiple loops wrapped about the standing line of rope to be slidable along at least a portion of the length of the standing rope line, with the sliding rope coupler having its ends joined together for attaching the safety harness thereadjacent, wherein said sliding rope coupler is freely repositionable along said standing rope line when not loaded, but resists sudden downward movement relative to said standing rope line when under load,
>
> *wherein the safety harness, the standing rope line, and the sliding rope coupler do not support the weight of the user except in the event that the platform, seat, or other device should fail or the user should fall off thereof.* (emphasis added).

Clearly, the *Miller* reference does not disclose, teach, or suggest, not even inherently, the passive use of the sliding rope coupler, as claimed. Thus, Claim 9, as well

as the claims that depend from Claim 9, are distinguishable from *Miller*. Accordingly, the Examiner has failed to establish a *prima facie* §102(b) rejection. Reconsideration and withdrawal of the §102(b) rejection is respectfully requested.

B. Claim Rejections under 35 U.S.C. § 103(a)

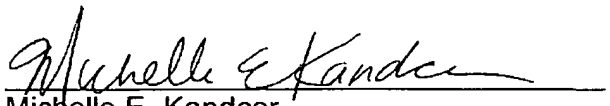
Claim 11 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Miller* in view of *Van Patten*. Claim 13 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Miller* in view of *Ascherin et al.* Claim 16 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Miller* in view of *Wagner*. These rejections are erroneous and cannot be sustained.

Van Patten, *Ascherin et al.*, and *Wagner* all fail to cure the deficiencies of *Miller*. *Van Patten*, *Ascherin et al.*, and *Wagner* all fail to disclose, teach, or suggest the passive use of a sliding rope coupler or Prusik knot. In fact, neither *Van Patten* nor *Wagner* discloses the use of Prusik knot in any manner. Rather, both references disclose metal structures. Although the *Ascherin* patent does disclose a Prusik knot, the *Ascherin* patent shows the use of a Prusik hitch as a sort of clutch for a winch used in rescue of a fallen person. Simply stated, none of these patents disclose the use of a Prusik hitch for arresting a fall, taking advantage of the sliding connection of a Prusik hitch to provide braking, as claimed. Accordingly, the Examiner has failed to establish a *prima facie* §103(a) rejection. Reconsideration and withdrawal of the §103(a) rejection is respectfully requested.

Moreover, with regard to Claim 13, there is no discussion regarding diameter of the line comprising the Prusik knot which would lead one of skill in the art to this limitation recited in Claim 13 (that the sliding rope coupler is made from a rope that has a smaller diameter than that of the standing rope line). Presumably, the diameters of the line 50 and the line 90 of *Ascherin* are the same, namely a one-half inch static, kernmantle rope (see column 3, lines 1-15).

In view of the above, it is clear that an essential element necessary to properly establish a *prima facie* anticipation rejection under §102(b) is lacking as in an essential element necessary to properly establish a *prima facie* obviousness rejection under §103, and that an appeal would be a waste of the Office's and the Applicant's resources. Accordingly, reconsideration and withdrawal of the stated grounds of rejection is respectfully requested, and favorable indication of allowance is earnestly solicited.

Respectfully submitted,
GARDNER GROFF SANTOS & GREENWALD, P.C.



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Michelle E Kandcer 02/26/2007
Michelle E. Kandcer Date

Application Number	Filed
09/954,838	September 12, 2001

First Named Inventor
JONES, Keith D

Art Unit	Examiner
3634	CHIN-SHUE, Alvin

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
  See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
  (Form PTO/SB/96)
- ☒ attorney or agent of record.
  Registration number 54,207
- ☐ attorney or agent acting under 37 CFR 1.34.
  Registration number

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February 26, 2007

☒ *Total of 1 forms are submitted.